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March 22, 1996

BY OVERNIGHT MAIL

Mr. William F. Caton  
Office of the Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

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COMM. FILE ROOM

**Re: CC Docket No. 95-185**


DOCKET FILE COPY ORIGINAL

Dear Mr. Caton:

Enclosed for filing please find an original plus nine (9) copies of the Reply Comments of Frontier Corporation in the above-docketed proceeding.

To acknowledge receipt, please affix an appropriate notation to the copy of this letter provided herewith for that purpose and return same to the undersigned in the enclosed, self-addressed envelope.

Very truly yours,

  
Michael J. Shortley, III

cc: International Transcription Service

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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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FEB 25 1997

FOC MAIL ROOM

**In the Matter of**

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**Interconnection Between Local Exchange  
Carriers and Commercial Mobile Radio  
Service Providers**

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**CC Docket No. 95-185**

**REPLY COMMENTS OF  
FRONTIER CORPORATION**

**Introduction**

Frontier Corporation ("Frontier") submits this reply to the comments filed in response to the Commission's Notice in this proceeding.<sup>1</sup> The comments demonstrate that the Commission should consolidate this proceeding with its forthcoming section 251 rulemaking. The Telecommunications Act of 1996 ("Act") has fundamentally altered the regulatory landscape governing interconnection. The Commission needs to address a plethora of interconnection issues and should do so in a comprehensive and coordinated manner. Even if the Commission decides to proceed, it should not require bill and keep as either an interim or as a permanent solution for commercial mobile radio service ("CMRS") interconnection.

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<sup>1</sup>

*Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, CC Dkt. 95-185, Notice of Proposed Rulemaking, FCC 95-505 (Jan. 11, 1996) ("Notice").

## Discussion

### I. **THE COMMISSION SHOULD DEFER CONSIDERATION OF THE ISSUES RAISED HERE TO THE FORTHCOMING SECTION 251 PROCEEDING.** (General Issues -- Reply Comments of Frontier Corporation -- March 22, 1996)

As a number of parties have demonstrated,<sup>2</sup> the passage of the Act has overtaken the Notice. The Act obligates the Commission to commence and complete within six months a rulemaking implementing the unbundling, interconnection and resale obligations enumerated in section 251 of the Communications Act.<sup>3</sup> In the context of the section 251 rulemaking, the Commission should adopt rules that apply uniformly to all interconnection/unbundling arrangements. There is simply no basis -- in the Act or in economics -- to treat one class of "telecommunications carrier" (including interexchange carriers) more favorably than all others solely on the basis of the technology utilized. Establishing different compensation arrangements for different types of telecommunications carriers will do no more than confer regulatory most favored nation status upon one group of providers and create the very types of economic inefficiencies that the Act is intended to preclude.

In addition, the claims of certain CMRS providers<sup>4</sup> that the Commission must act expeditiously in this proceeding are entirely misplaced. The Commission must complete

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<sup>2</sup> *E.g.*, SBC at 2-4.

<sup>3</sup> 47 U.S.C. § 251(d)(1).

<sup>4</sup> *E.g.*, PCIA at 26-27.

the section 251 rulemaking by August of this year. There is no reason for the Commission to expend the time and resources to craft interim rules governing only one market segment that will be superseded in five months in any event.

Moreover, the divergent views over the extent to which the Commission may or may not preempt state action<sup>5</sup> not only overstate the parties' respective positions,<sup>6</sup> they also represent a red herring. The Commission need not, at this time, address the extent of its jurisdiction. Rather, the Commission should adopt detailed federal guidelines governing

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<sup>5</sup> Compare PCIA at 15-26 with USTA at 15-16.

<sup>6</sup> For example, the claim that section 332 of the Communications Act necessarily federalizes the entire field of CMRS rate regulation appears incorrect. Section 332(c)(3)(A) preempts state regulation of the rates CMRS providers charge their subscribers. That particular section, however, is silent as to interconnection in general and as to the rates exchange carriers charge CMRS providers. See BellSouth at 34. Weighed against this is section 332(c)(1)(B) which addresses the Commission's authority to prescribe interconnection. That section does not, by its terms, limit or expand the Commission's substantive authority over the terms and conditions of interconnection.

The contrary claim (e.g., Letter from Michael K. Kellogg to William F. Caton (Feb. 26, 1996) on behalf of Bell Atlantic and Pacific) that section 252 completely divests the FCC of jurisdiction over the terms and conditions of interconnection is also unconvincing. In addition to minimizing the significance of the section 251 rulemaking mandated by the Act, the Kellogg analysis ignores the Commission's independent role in approving any petitions filed by the Bell companies to enter the in-region, interLATA business. Under section 271(d)(3), the Commission must, as a prerequisite to approving any such petition, determine that the petitioning Bell company satisfies the requirements set forth in section 271(c), including the competitive checklist enumerated in section 271(c)(2)(B). In reaching this determination, the Act permits the Commission to determine that, although the petitioning Bell company has an effective interconnection agreement or statement of generally available terms, it nonetheless fails one or more items of the competitive checklist or that the requested authorization to provide in-region, interLATA services is inconsistent with the public interest, convenience and necessity. This independent grant of substantive authority confers upon the Commission a far greater role in defining the terms, conditions and rates governing unbundling, interconnection and resale than that ascribed to it by Bell Atlantic and Pacific.

all interconnection arrangements and leave the details of implementation to the states under the section 252 negotiation process in the first instance.<sup>7</sup>

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<sup>7</sup>

The Commission should, of course, be prepared to preempt blatantly inconsistent state action such as Connecticut's refusal to permit CMRS providers to enter into any mutual compensation arrangements with exchange carriers. See Bell Atlantic NYNEX Mobile at 20-21.

**II. IF THE COMMISSION DECIDES TO PROCEED, IT SHOULD REJECT BILL AND KEEP AS BOTH AN INTERIM AND A PERMANENT POLICY.** (Compensation for Interconnected Traffic Between LECs' and CMRS Providers' Networks -- Reply Comments of Frontier Corporation -- March 22, 1996)

A general bill and keep prescription is economically irrational. Such a regime would make economic sense only if the costs of termination were exceeded by the transactions costs. The record, however, does not support this as generally being true. The Brock study -- which forms the basis for the case for bill and keep -- does not dispute that there are costs to terminate traffic.<sup>8</sup> In these circumstances, a general prescription of bill and keep would constitute a subsidy of CMRS providers, to the detriment of other competitors. Such a prescription would, therefore, result in economically inefficient investment and consumption decisions.

In addition, section 252(d)(2)(B)(i) of the Communications Act provides that it shall not:

preclude arrangements that afford the mutual recovery of costs through the offsetting of reciprocal obligations, including arrangements that waive mutual recovery (such as bill-and-keep arrangements).

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<sup>8</sup> Brock concedes, for example, that the economic costs of terminating peak-period traffic is at least ten times as great as the costs of terminating off-peak traffic. See Pacific at 55. In addition, as the Commission correctly notes, the Brock study does not appear to take into account the interoffice portion of terminating traffic. Notice, ¶ 63. Moreover, as Pacific describes, the Brock study contains other methodological flaws that render its conclusions suspect. Pacific at 55-56.

While parties are free between themselves to negotiate bill and keep arrangements, the language of the Act does not appear to favor its imposition by any regulatory authority upon a party that does not consent to this arrangement. The Commission should, therefore, steer clear by abandoning further consideration of a generally applicable bill and keep regime as either an interim or a permanent policy.

If the Commission believes that it must adopt some policy in this proceeding, it should codify the pricing standards set forth in section 252(d)(2)(B)(ii) of the Communications Act, namely, that recovery shall be based on “a reasonable approximation of the additional costs of terminating such calls.” This approach would permit the Commission to establish guidelines applicable to CMRS interconnection that would also necessarily apply to other forms of interconnection. It would, therefore, preserve parity among different industry participants and would not single out one class of provider for preferential treatment.

This is not to say that the Commission -- or the state commissions -- should require exchange carriers or CMRS providers to conduct expensive and contentious cost studies. The Act requires only that rates for interconnection be based on a “reasonable approximation” of costs. The record already contains such reasonable approximations. For the interim, the Commission could establish a presumption that the .5 cent end office/.75 cent tandem termination rate structure currently offered by Ameritech-Illinois is presumptively reasonable,<sup>9</sup> subject to a long-term outcome in the section 252 negotiation

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<sup>9</sup> See Frontier at 8-9.

and the sections 271/272 approval process based upon total service long run incremental cost.

**Conclusion**

For the foregoing reasons, the Commission should act upon the proposals set forth in the Notice in the manner suggested herein and in Frontier's comments.

Respectfully submitted,

  
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Michael J. Shortley, III

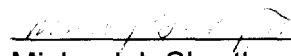
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March 22, 1996

### **Certificate of Service**

I hereby certify that, on this 22nd day of March, 1996, copies of the foregoing Reply Comments of Frontier Corporation were served by first-class mail, postage prepaid, upon the parties on the attached service list.

  
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